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**JAN 27 2006**

**OFFICE OF PETITIONS**

In re Application of  
Williams et al.  
Application No. 10/604,805  
Filed: August 18, 2003  
Attorney Docket No. hardpoint

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: **DECISION DISMISSING PETITION**  
: **UNDER 37 CFR 1.78(a)(3)**  
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This is a decision on the "Petition For Unintentionally Delayed Benefit Claim," filed December 21, 2005, which is being treated as a petition under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **dismissed**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition lacks item (2) above.

In the instant petition, petitioner stated that the fee for the surcharge set forth in 37 CFR 1.17(t) was enclosed with the petition. Unfortunately, the Office did not receive the surcharge with the petition. Furthermore, petitioner did not submit an authorization to charge a Deposit Account for the required fee. Before the petition under 37 CFR 1.78(a)(3) can be granted, petitioner must file a renewed petition under 37 CFR 1.78(a)(3), accompanied by the required surcharge set forth in 37 CFR 1.17(t).

Further correspondence with respect to this matter should be addressed as follows:

By mail:                      Mail Stop Petition  
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Any questions concerning this matter may be directed to Senior Petitions Attorney Christina Tartera Donnell at (571) 272-3211.



Frances Hicks  
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